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**1991 Wis Eth Bd 11**  
EXPENSES; LEGISLATORS; MEALS, LODGING, TRAVEL AND  
ENTERTAINMENT

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The Ethics Code does not forbid a legislator from participation in a foreign study tour if such participation is authorized by the Senate Committee on Organization or by the Speaker of the Assembly. Eth. Bd. 689

August 22, 1991

Facts

[1] This opinion is based upon these understandings:

- a. You are a legislator and a state public official.
- b. You have been invited to participate in a political study tour sponsored by an organization.
- c. The organization is a private, non-profit organization which sponsors bipartisan international study programs for individuals between the ages of 25 and 40 who are active in politics and government in the United States.
- d. The organization has entered a formal agreement with a foreign country for a formal exchange program. The foreign country, which will host the study tour, develops programs for providing insight into that country from a political, economic, and cultural perspective.
- e. The organization and the exchange program is funded primarily by a grant from the United States Information Agency.

Question

[2] The State of Wisconsin Ethics Board understands your question to be:

May you, consistent with the statutes administered by the Ethics Board, participate in the political study tour?

Discussion

[3] Prior to January 1, 1991, the most pertinent provision of the Ethics Code applicable to the situation about which you ask was §19.45 (2), *Wisconsin Statutes*. That statute provides:

**§19.45 (2)** No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

[4] The primary issue raised by this provision in the context of your question is whether the study tour primarily would be for public benefit or for private benefit. In the past, the Ethics Board has been of the view that study tours such as the one in which you have been selected to participate are of public benefit. This view has been based on the purpose and subject matter of the tour and on its sponsorship by an agency of the federal government.

[5] Beginning January 1, 1991, the legislature has provided in §19.45 (3m), *Wisconsin Statutes*, that "[n]o state public official may accept or retain any transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with s. 19.56(3). That section permits state public officials to accept travel-related items such as transportation, lodging, and meals, or reimbursement therefor, only if the items are received on behalf of and primarily for the benefit of the state of Wisconsin, and not simply for general public benefit.<sup>1</sup>

[6] The Ethics Board believes that your participation in the exchange program, sponsored by a national, non-profit, bipartisan organization and funded primarily by a federal agency, likely will be of benefit to the state. However, the Ethics Board is not usually in a good position to advise officials on whether or not participation in such programs is a part of or relates to their positions or whether participation will enhance their job performance. These are questions that must be decided, in the first instance, by each official's department or agency. For this reason, we recommend that a legislator seek either the Speaker's, or the Senate Committee on Organization's approval for participation in the program. Normally, such authorization is sufficient to meet an official's burden of showing that participation in a program is on behalf of the state and primarily is for the state's benefit.

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<sup>1</sup> Section 19.56 (3) (c), *Wisconsin Statutes*, provides:

**§19.56 (3) (c)** A state public official may receive and retain from the state or on behalf of the state transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of actual and reasonable costs that the official can show by clear and convincing evidence were incurred or received on behalf of the state of Wisconsin and primarily for the benefit of the state and not primarily for the private benefit of the official or any other person.

### Advice

[7] The Ethics Board advises that you may participate in the study tour about which you ask if your participation is authorized by the Senate Committee on Organization or by the Speaker of the Assembly.